State Of California The Resources Agency of California

Memorandum

Date : May 14, 2003
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To: John L. Geesman, Commissioner and Committee Presiding Member
Arthur H. Rosenfeld, Commissioner and Committee Associate Member

From: California Energy Commission - Matt Trask
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Subject: **PICO POWER PROJECT (02-AFC-3) MEMO ON CHANGES TO STAFF'S PROPOSED CONDITIONS OF CERITIFICATION**

At the evidentiary hearing held on May 7, 2003, Silicon Valley Power (applicant) requested several changes to the Staff Assessment. Staff's response to those requests are below. Where appropriate, changes are shown with new text underlined and deleted text struck through.

1. The applicant has requested that **Condition of Certification Soil & Water 6** include a "force majeure" provision that would allow the facility to pump from its backup well in the event of an unforeseen disruption of its supply of reclaimed water from the San Jose/Santa Clara Water Pollution Control Plant (WPCP). The facility already has a backup water supply for this "force majeure" contingency; indeed, that was the very purpose of Soil & Water 6. That condition allows up to 45 days of use of the project's backup well in the event that recycled water supply from the WPCP is disrupted. Normally the WPCP is quite reliable, and outages are brief in duration (usually a matter of hours up to one or two days). The 45 day allowance was intended to provide for an unusual and unforeseen disruption, such as one might expect if the WPCP is damaged by an earthquake. The applicant had originally requested this 45 day contingency, and staff examined the potential impact of such a 45 day contingency as the basis of its condition. Moreover, the aquifer is vulnerable to overdrafting. Therefore, staff does not agree to a more extended force majeure clause, as there is no analysis of impacts on the aquifer to support it.

   Staff has determined that the ground water aquifer can provide this quantity of water without overdrafting the aquifer. The clause requested by the applicant would allow the power plant to withdraw water in excess of 45 days if an unavoidable interruption of the primary supply was caused by an "Act of God," a natural disaster, an unforeseen emergency or other unforeseen circumstances outside the control of the project owner. The groundwater aquifer that the backup well would pump from has experienced water quality and subsidence problems caused by past overdraft. Although the aquifer is not currently being overdrafted, it is close to being in balance. If additional water is withdrawn beyond the 45 day maximum analyzed by staff, staff cannot make the determination that the project will not create a significant adverse impact. The conclusion made by staff that the project would comply with LORS and not have

a significant adverse impact was contingent upon the implementation of mitigation measures and the Conditions of Certification. If the power plant is allowed to withdraw water for some additional days, months or years due to unforeseen circumstances staff cannot determine that significant impacts will not occur without additional analysis.

2. Staff agrees to revise **Condition of Certification Soil & Water 8** to read:

SOIL & WATER 8: The project owner shall conduct the aquifer test program as proposed by the applicant in the *Statement of Work, Proposed Aquifer Test Program, Backup Water Supply Well, Pico Power Project* (SVP 2003c).

The project owner shall calculate the projected vertical gradient between the Upper and Lower Aquifer Zones over the life of the project based on an annual groundwater pumping rate of 57 million gallons for a period of 45 days each year for 40 years. The aquifer test procedures, the interpretation of the test results, the raw data (in machine readable format), the calculation of aquifer properties, and the impacts analyses shall be presented and discussed in the aquifer test technical report. The aquifer test technical report shall be provided to the RWQCB and the Santa Clara Valley Water District for review, as well as the CPM for approval, at least 90 days prior to the commercial operation of the project backup well.

The aquifer test program would result in a finding of a potential significant adverse impact caused by backup pumping if the program identifies both significant contamination and a significant gradient at the project, according to the criteria listed below.

Significant Contamination Criteria: Detection of contamination concentrations of Title 22 constituents above the Maximum Contaminant Levels (MCL) in the Upper Aquifer Zone.

Significant Gradient Criteria: A calculated vertical downward gradient between the Upper and Lower Aquifer Zones that would allow transmission of ~~water~~ <u>contamination</u> over the life of the project under worst-case groundwater pumping conditions.

If there is a finding of a potential significant adverse impact, the project owner is required to submit a mitigation plan to avoid or reduce the impact to a level less than significant. The Mitigation Plan shall be provided to the Santa Clara Valley Water District for review and comment, as well as the CPM and the RWQCB for approval, at least 60 days prior to the commercial operation of the project backup well.

The project owner shall implement the approved Mitigation Plan and provide documentation of implementation to the Santa Clara Valley Water District, the CPM and the RWQCB, at least 30 days prior to the commercial operation of the backup well.

The project owner shall provide a copy of the aquifer test technical report to CPM for review and approval at least 90 days prior to commercial operation of the project backup well. The project owner shall also provide a copy of the aquifer test technical report to the RWQCB and the Santa Clara Valley Water District for review and comment 90 days prior to commercial operation of the project backup well.

3. Staff has received a copy of a letter dated May 1, 2003, from the City of Santa Clara to Mr. Michael J. Fox of Silicon Valley Power. The letter states the City has determine that the existing 12-inch sewer main has the capacity to receive and convey the domestic wastewater effluent from the projects administration building. Staff agrees that the addition of a peak flow rate of 5 gallons per minute is an insignificant increase based on the capacity of the pipe and therefore has determined that this increase in flow will not have a significant impact.

4. Finally, the applicant and the City of Santa Clara have asked for clarification concerning the planned use of railways for delivery of major components to the project area, and the use of large trucks for delivering the large components from the railway terminal to the project site. Staff agrees that clarification is needed, and proposes the following changes:

The second paragraph on page 4.9-9 of the March 2003 Staff Assessment is revised to read:

Railways

~~The applicant does not plan on using any rail line during construction of the PPP.~~ The Applicant plans to use rail transport for eight heavy hauls. However, sidings for unloading are not available near the project site. Sidings available for use are located in North San Jose and at Marberry Road near Interstate 101 in San Jose. Negotiations are underway with Union Pacific to determine the appropriate siding(s). Equipment would be trucked from the siding to the site. Each rail car would constitute one heavy truck load.

Further, **Condition of Certification TRANS-7** is revised to read:

TRANS-7 During construction and operation of the PPP, the project owner and contractors shall enforce a policy that all project-related traffic traveling north of Lafayette Street avoid turning left across traffic onto Duane Street, and from turning left onto Lafayette Street from Duane Street. Staff has

identified three alternate routes for reaching the site that avoid the left turn off at Lafayette Street.

The project owner and construction contractor will need to require that the construction workforce and truck drivers choose among three routes.

1) The first involves using Central Expressway or San Tomas to Scott Boulevard followed by a turn onto Space Park Drive, a left turn onto Kenneth Street, and a right turn onto Duane Street and proceeding east to the site.

2) The second route involves going south on De La Cruz to Central Expressway and turning right and proceeding west to Scott Boulevard, followed by a right turn on Space Park Drive and proceeding in the same manner identified in the first route.

3) The third route involves going north on Lafayette Street from either the westbound or eastbound lanes on Central Avenue, followed by a left turn onto Comstock and then an immediate right turn into the southern perimeter gate for the PPP site. This route will only be used to transport heavy loads by truck from the rail transfer site to the project. The deliveries will require a flagman and will only occur during early morning hours (3 a.m. to 6 a.m.).

Verification: At least 60 days prior to start of site preparation or earth moving activities, the project owner shall provide a traffic routing plan for all phases of project construction and operation to the City of Santa Clara and Caltrans for review and comment, and to the CPM for review and approval.